

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5309

AN ORDINANCE relating to the Traffic Standards Code (TSC) and amending Sections 1, 2 (part) and 5 of Ordinance No. 4823 as amended, respectively, by Sections 2, 3 and 6 of Ordinance No. 5081, and Sections 14.10.010, 14.10.020 A., B. and C., and 14.10.050 of the Bellevue City Code; providing for application of the TSC to Process III Conditional Use, Shoreline Conditional Use, Preliminary Plat, Planned Unit Development and Protected Area Development Exception applications within the community council areas and making minor administrative amendments to insure consistency between the TSC and the Land Use Code.

WHEREAS, in March 1997, the City pursued regulatory reform amendments to the Land Use Code (LUC) to consolidate, renumber and standardize procedures which included the classification of Conditional Use Permits (CUPs), Preliminary Plats (Plats), Planned Unit Developments (PUDs) and Large Lot Protected Areas Development Exceptions (Large Lot PADEs) as Process III applications when located within community council jurisdictions; and

WHEREAS, the Growth Management Act (GMA) requires all local jurisdictions to adopt and enforce concurrency ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan; and

WHEREAS, the TSC is the City of Bellevue's concurrency ordinance; and

WHEREAS, the TSC in effect in 1997 did not apply to Process III applications and, as a result, CUPs, Plats, PUDs and Large Lot PADEs that were classified as Process III applications within the community council areas were no longer subject to application of the TSC; and

WHEREAS, in July 1998, the TSC was amended so as to, among other things, make it applicable to Process III land use actions to capture the amendments made to the LUC in 1997; and

WHEREAS, the community councils both disapproved the 1998 TSC amendment (Ord No. 5081) and King County Superior Court subsequently ruled that their disapproval resolutions were valid and effective so as to make Ordinance No. 5081, including the portion making the TSC applicable to Process III land use decisions within the community council areas, inapplicable within those areas, contrary to the requirements of the GMA; and

WHEREAS, the community councils supported staff preparation of amendments to the TSC to correct the unintended consequences created by the community council disapprovals and to make the TSC applicable to Process III land use decisions (excluding rezones) within the community council areas; and

WHEREAS, the City of Bellevue has complied with the State Environmental Policy Act (SEPA), RCW 43.21C, and the City's Environmental Procedures Code, BCC 22.02; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Section 1 of Ordinance No. 4823, as amended by Section 2 of Ordinance No. 5081, and BCC 14.10.010, are hereby amended to read as follows:

14.10.010 Definitions.

For purposes of this Chapter 14.10 BCC, the following definitions apply:

A. "Affected intersection" means a signalized system intersection within a mobility management area in the city; or over which the city has operational responsibility under an interlocal agreement, as authorized by Chapter 39.34 RCW or other law; or where there is such an interlocal agreement to apply this chapter to the intersection; and to which the development proposal is projected to add 20 or more P.M. peak period average trips.

B. "Affected mobility management area" means any mobility management area with an affected intersection.

C. "Area-average level of service" means the sum of the critical volumes of the signalized system intersections within a mobility management area divided by the sum of the capacity of the signalized system intersections within that mobility management area.

D. "Background traffic" means the volume of traffic that is projected to occur on the street system as of the anticipated date of occupancy of a proposal. Background traffic includes regional traffic, anticipated traffic from all proposals which have been approved under Chapter 23.10 BCC, approved Process I and Process II applications, and approved Process III Conditional Use, Shoreline Conditional Use, Preliminary Plat, Planned Unit Development and Protected Area Development Exception applications within a Community Council jurisdiction. Approved Process I and II applications, and Process III Conditional Use, Shoreline Conditional Use, Preliminary Plat, Planned Unit Development and Protected Area Development Exception applications within a Community Council jurisdiction, shall be excluded from background traffic calculations after a one-year period, unless a building permit application has been filed.

E. "Concurrency" means a requirement of the 1990 Growth Management Act (RCW 36.70A.070 (6)) that the city must enforce an ordinance precluding approval of a proposed development if that development would cause the level of service of a transportation facility to fall below the city's adopted standard, unless revenues are secured to complete mitigating transportation improvements or strategies within six years. In the City of Bellevue, "transportation facility" is defined as any mobility management area. When a development fails to meet the concurrency test, mitigation will be required to accommodate the impacts of the development. Transportation demand management and other nonroadway strategies may be used.

F. "Congestion allowance" means the number of signalized system intersections allowed to exceed the level-of-service standard adopted for a mobility management area.

G. "Degradation" means an increase in the volume/capacity ratio (v/c ratio) above the area-wide level-of-service standard for a mobility management area as established in BCC 14.10.030; or an increase beyond the congestion allowance in the number of signalized system intersections exceeding the level-of-service standard.

H. "Director" means the director of the transportation department for the city of Bellevue, the director's authorized representative, or any representative authorized by the city manager.

I. "Fully funded project" means a project in the most recently adopted capital investment program plan for the city or similar capital program of another jurisdiction which has sufficient revenues secured for construction.

J. "Level-of-service" means the degree of saturation of an intersection. It is measured as the summation of the flow ratios for all critical lane groups in the intersection.

K. "Mitigation," for the purposes of this chapter, means transportation demand management strategies or facility improvements constructed or financed by a developer which return a degraded area-wide level of service to the standard of the area. If an area already exceeds the standard prior to the development proposal, "mitigation" means transportation demand management strategies or facility improvements constructed or financed by a developer that at the least maintains the area-wide level of service existing prior to the development.

L. "Mobility management areas" means distinct areas with boundaries based on factors such as area-specific mobility targets. Mobility management areas are shown mapped in BCC 14.10.060. Some mobility management areas include intersections outside the city's jurisdiction; see Transportation Element policies TR-30 and TR-31.

M. "P.M. peak period" means the two hours between 4:00 P.M. and 6:00 P.M.

N. "P.M. peak period (averaged) level of service" means the v/c ratio of a system intersection calculated using the P.M. peak period average trips.

O. "P.M. peak period average trips" means the average of the total vehicular trips between 4:00 P.M. and 5:00 P.M. and between 5:00 P.M. and 6:00 P.M.

P. "System intersection" means an intersection which contributes to the system function within each mobility management area. System intersections within the mobility management areas are listed and mapped in BCC 14.10.060.

Q. "Transportation demand management" means strategies designed to increase the efficiency of existing capital transportation facilities, including, but not limited to, transit and ridesharing incentives, flexible working hours, parking management, and pedestrian enhancements to decrease single occupancy vehicle trips.

R. "Under construction" means when a construction contract for a project has been awarded or actual physical alteration or improvement has occurred on the site.

S. "Volume/capacity ratio (v/c ratio)" means the flow ratio for a lane group as defined in the Transportation Research Board Highway Capacity Manual, Special Report 209, using the operational analysis method where  $v$  = the actual or projected demand flow

rate for a lane group in vehicles per hour, and c = the capacity of a lane group in vehicles per hour.

Section 2. Section 2 (part) of Ordinance No. 4823, as amended by Section 3 of Ordinance No. 5081, and BCC 14.10.020 A., B. and C., are hereby amended to read as follows:

14.10.020 Application and administration.

A. General Application. This chapter applies to all applications filed after its effective date under Bellevue City Code (Land Use Code) Process I (20.35.100 et seq.); Process II (20.35.200 et seq.); Process III Conditional Use, Shoreline Conditional Use, Preliminary Plat, Planned Unit Development and Protected Area Development Exception applications within Community Council jurisdiction (20.35.300 et seq.); and Chapter 23.10 BCC; if the proposal or use will generate 30 or more new P.M. peak period average trips; provided, this chapter shall not apply to final plan approval or to any building permit for a planned unit development which received preliminary plan approval prior to June 14, 1989. The trip generation rate is based on in the most recent Trip Generation, published by the Institute of Transportation Engineers. Other trip generation rate sources may be used where ITE data are based on a limited survey base or where there may be special trip-generating characteristics of the proposal.

B. Phased Development. A phased development is any Process I or Process II approval, or Process III Conditional Use, Shoreline Conditional Use, Preliminary Plat, Planned Unit Development and Protected Area Development Exception applications within Community Council jurisdiction, involving multiple buildings where issuance of building permits under Chapter 23.10 BCC could occur for individual buildings. The requirements of this chapter shall be applied for all phases at the time of approval of the initial phase and may be adjusted for each subsequent phase based on the cumulative impact of all the phases.

C. Single Project Limits. All Process I, Process II, Process III Conditional Use, Shoreline Conditional Use, Preliminary Plat, Planned Unit Development and Protected Area Development Exception applications within a Community Council jurisdiction and Chapter 23.10 BCC applications which have been submitted for a single project limit (as defined in Bellevue City Code (Land Use Code) 20.50.040) within the three-year period immediately prior to an application will be considered as being a single application for purposes of determining under subsection A of this section whether this chapter applies to the application.

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Section 3. Section 5 of Ordinance No. 4823, as amended by Section 6 of Ordinance No. 5081, and BCC 14.10.050, are hereby amended to read as follows:

A. Mitigation Methods. If mitigation is required to meet the area-average level-of-service standard or congestion allowance in any mobility management area, the applicant may choose to (1) reduce the size of the development until the standard is met, (2) delay the development schedule until the city and/or others provide needed improvements, or (3) provide the mitigation per subsection B of this section.

B. Payment for and Timing of Improvements.

1. Construction improvements to intersections subject to the city's direct operational control which are required of a developer under BCC 14.10.040 must be under construction within six months after issuance of a certificate of occupancy, final plat approval, or other such approval. The director shall require an assurance device to guarantee completion of such improvements in accordance with Bellevue City Code (Land Use Code) Section 20.40.490.

2. The developer may provide funding in an amount equal to the director's cost estimate for improvements required under BCC 14.10.040. The director may require actual construction rather than provision of funding. Payment for transportation improvements must occur by the time of building permit issuance, final plat approval, or other such approval.

3. All funds received by the city under subsection (B)(2) of this section shall be expended within six years of receipt. Any funds not expended within six years of receipt shall be refunded in full to the property owner currently of record, plus interest earned, less a reasonable administrative charge for processing.

4. The director may recommend to the city council approval of latecomer agreements as provided by state law or for other reimbursement from properties benefitted by the improvements.

5. A proposal for construction of transportation improvements to intersections partially or wholly outside the city's direct operational control, or payment for those improvements in an amount equal to the director's cost estimate, which improvements are required of a developer to meet the requirement of BCC 14.10.040(B), must be submitted to the agencies which have control for approval. Should the agencies elect to postpone the proposed improvements, or refuse to accept the proposed mitigation, the director shall collect and hold the amount estimated for mitigation until the improvement is made or until six years have elapsed. Any funds not expended within six years of receipt shall be refunded in full to the property owner currently of record, plus interest earned, less a reasonable administrative charge for processing. An assurance device in accordance with Bellevue City Code (Land Use Code) Section 20.40.490 may, with the agencies' approval, substitute for the payment or construction.

C. Transportation Demand Management.

1. As a mitigation measure, the developer may propose and establish transportation demand management strategies to reduce single occupancy vehicle trips generated by the project. The director will determine the corresponding trip volume reduction, which for purposes of determining compliance with this chapter shall not be greater than 30 percent. The director will have discretion to grant an exception to the 30 percent limit.

2. The director shall monitor and enforce the transportation demand management performance as directed under Section 14.60.070 BCC (Transportation Management Program) and through programs developed for the downtown in accordance with Section 14.60.080 BCC (Transportation Management Program Downtown). The director will determine if a performance assurance device will be required.

D. Decision Criteria - Acceptable Mitigation. Acceptable mitigation requires a finding by the director that:

1. The mitigation is consistent with the comprehensive plan.
2. The mitigation contributes to system performance.
3. If the mitigation proposed involves an intersection, the intersection must be operating at a v/c ratio of 0.851 or greater, except in residential group #2, where intersections must be operating at a v/c ratio of 0.800 or greater.
4. Improvements to an intersection or roadway may not shift traffic to a residential area.
5. Improvements to an intersection or roadway may not shift traffic to other intersections for which there is no acceptable mitigation available.
6. Improvements to an intersection or roadway may not shift traffic to intersections within another jurisdiction which would violate that jurisdiction's policies and regulations.
7. Improvements to an intersection or roadway may not shift traffic to another mobility management area when such a shift would violate that mobility management area's objectives and standards.
8. The effect of the improvement may not result in a reduction or loss of another transportation objective, including but not limited to high occupancy vehicle lanes, sidewalks, or bicycle lanes.
9. The adverse environmental impacts of the facilities improvement can be reasonably alleviated.
10. The improvement will not violate accepted engineering standards and practices.

Notwithstanding the foregoing, the director has the authority, in the director's sole discretion, to require correction of a documented safety-related deficiency.

Section 4. This ordinance shall take effect and be in force five days after its passage and legal publication.

PASSED by the City Council this 30th day of July, 2001, and signed in authentication of its passage this 30th day of July, 2001.

(SEAL)

Chuck Mosher, Mayor

Approved as to form:  
Richard L. Andrews, City Attorney

Attest:  
Myrna L. Basich, City Clerk

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